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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,377	09/26/2003	Shigeaki Fukui	848075/0055	8545
29619 7590 01/12/2009 SCHULTE ROTH & ZABEL LLP ATTN: JOEL E. LUTZKER 919 THIRD AVENUE NEW YORK, NY 10022			EXAMINER ECHELMEYER, ALIX ELIZABETH	
			ART UNIT	PAPER NUMBER
			1795	
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			01/12/2009 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,377

Applicant(s)

FUKUI, SHIGEAKI

Examiner

Alix Elizabeth Echelmeyer

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to the amendment filed October 3, 2008. Claims 1 and 2 have been amended. Claims 106 are pending and are rejected finally for the reasons given below.

Claim Rejections - 35 USC § 112

2. The rejection of claim 1 is withdrawn in light of the amendment.

Claim Objections

3. Claim 2 is objected to because of the following informalities: the second to last word of the claim, "there" should be "the." Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehara (US Pre-Grant Publication 2002/0142195) in view of Masumoto et al. (US Pre-Grant Publication 2003/0180582) and Horsma (US 4,314,145).

Ehara teaches a battery pack having a circuit element protected by a positive temperature coefficient (PTC) element (abstract, [0034]-[0035]), which is the element used as the heat protecting element in the instant disclosure.

Ehara further teaches that the PTC element (15) is bonded to the battery, or separated from the surface of the cell, by resin (17) (Figure 3, [0010], [0034], [0035]).

Ehara teaches a case to protect the circuit elements (41) (Figure 3).

Ehara fails to teach a resin mold section covering the circuit, connecting members, and PTC element.

Regarding claim 1, Masumoto et al. teach a battery having elements covered by an insulating resin mold package ([0018]).

It would be desirable to fill the case of Ehara with resin as taught by Masumoto et al. since it would provide additional insulation to the circuit elements of Ehara.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the case of Ehara with resin as taught by Masumoto et al. since it would provide additional insulation to the circuit elements of Ehara.

Ehara et al. in view of Masumoto et al. fail to teach the use of a heat insulating member surrounding the PTC.

Horsma teaches a PTC element having a restively and thermally insulating composition surrounding the PTC (column 9 lines 59-64).

As for the sleeve requirement of claim 3, the PTC element of Horsma is protected by a coating, or sleeve, of heat insulation member (Figure 4).

Horsma further teaches that the heat insulating member is desirable to ensure that the current passes through the PTC and not the surrounding components, therefore allowing the PTC to get an accurate measure of the current (column 4 line 60 - column 5 line 6).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the heat insulating member of Horsma to protect the PTC of Ehara et al. in view of Masumoto et al.

6. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehara in view of Masumoto et al. and Horsma as applied to claims 1-3 above, and in further view of Fong et al. (US Pre-Grant Publication 2003/0124420).

The teachings of Ehara, Masumoto et al. and Horsma as discussed above are incorporated herein.

Ehara in view of Masumoto et al. and Horsma teaches the battery of the instant invention but fails to teach that the connection members are made of metal plates.

Fong et al. teach the use of metal, especially copper, plates as terminal connectors since they provide high conductivity and low contact resistance ([0043]).

It would be desirable to use the metal plates of Fong et al. in the battery of Ehara in view of Masumoto et al. and Horsma since they provide high conductivity and low contact resistance.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the metal plates of Fong et al. in the battery of Ehara in view of Masumoto et al. and Horsma in order to improve the performance of the battery through the high conductivity and low contact resistance of the plates as taught by Fong et al.

Response to Arguments

7. Applicant's arguments filed October 3, 2008 with respect to claim 1 have been considered but are moot in view of the new ground of rejection, see above. The new grounds of rejection are given in light of the claim amendment.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alix Elizabeth Echelmeyer whose telephone number is (571)272-1101. The examiner can normally be reached on Mon-Fri 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795

Alix Elizabeth Echelmeyer
Examiner
Art Unit 1795

aee